

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
HATTIESBURG DIVISION**

STEPHANIE STAHL,

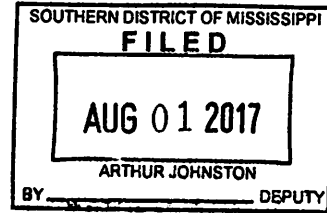
Case No

Plaintiff,

— vs —

CAPITAL ONE FINANCIAL CORP.,

Defendant.



STEPHANIE STAHL (Plaintiff), by her attorney, alleges the following against
CAPITAL ONE FINANCIAL CORP., (Defendant):

INTRODUCTION

1. Count I of Plaintiff's Complaint is based on negligent violations of the Telephone Consumer Protection Act 47 U.S.C. § 227 et seq., (TCPA).
2. Count II of Plaintiff's Complaint is based on knowing and/or willful violations of the Telephone Consumer Protection Act 47 U.S.C. § 227 et seq., (TCPA).

JURISDICTION AND VENUE

3. Jurisdiction of this Court arises under 28 U.S.C. § 1331 and 47 U.S.C. §227(b)(3). See, *Mims v. Arrow Financial Services, LLC*, 132 S.Ct. 740 (2012), holding that federal and state courts have concurrent jurisdiction over private suits arising under the TCPA.
4. Venue is proper in the United States District Court for the Southern District of Mississippi pursuant to 28 U.S.C § 1391(b) because Plaintiff resides within this District and a substantial part of the events or omissions giving rise to the herein claims occurred, or a substantial part of property that is the subject of the action is situated within this District.

PARTIES

1 5. Plaintiff is a natural person residing in the Lauderdale County, in the city of Meridian,
2 Mississippi.

3 6. Defendant is a corporation doing business in the State of Mississippi, and is a Virginia
4 corporation with its principal place of business located in McLean, Virginia.

5 7. At all times relevant to this Complaint, Defendant has acted through its agents employees,
6 officers, members, directors, heir, successors, assigns, principals, trustees, sureties,
7 subrogees, representatives and insurers.

8 **FACTUAL ALLEGATIONS**

9 8. Defendant is a "person" as defined by 47 U.S.C. § 153 (10).

10 9. Defendant placed collection calls to Plaintiff seeking and attempting to collect on alleged
11 debts incurred through purchases made on credit issued by Defendant.

12 10. Defendant placed collection calls to Plaintiff's cellular telephone at phone number (601)
13 678-39XX.

14 11. Defendant placed collection calls to Plaintiff from phone numbers including, but not
15 limited to (800) 955-660.

16 12. Per its prior business practices, Defendant's calls were placed with an automated dialing
17 system ("auto-dialer").

18 13. Defendant used an "automatic telephone dialing system", as defined by 47 U.S.C. § 227(a)
19 (1) to place its telephone calls to Plaintiff seeking to collect a consumer debt allegedly
20 owed by Plaintiff, STEPHANIE STAHL.

21 14. Defendant's calls constituted calls that were not for emergency purposes as defined by 47
22 U.S.C. § 227(b)(1)(A).
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1 15. Defendant's calls were placed to a telephone number assigned to a cellular telephone
2 service for which Plaintiff incurs a charge for incoming calls pursuant to 47 U.S.C. §
3 227(b)(1).

4 16. Defendant never received Plaintiff "prior express consent" to receive calls using an
5 automatic telephone dialing system or an artificial or prerecorded voice on her cellular
6 telephone pursuant to 47 U.S.C. § 227(b)(1)(A).

7 17. On or about December 1, 2016, at or about 1:16 p.m. Pacific Standard Time, the Plaintiff
8 called into Defendant's company at phone number (800) 955-6600 and spoke with
9 Defendant's male representative ("Dean") and requested that Defendant cease calling
10 Plaintiff's cellular phone.

11 18. During the conversation, Plaintiff gave Defendant both her phone number and social
12 security number to assist Defendant in accessing her account before asking Defendant to
13 stop calling her cell phone.

14 19. Plaintiff revoked any consent, explicit, implied, or otherwise, to call her cellular telephone
15 and/or to receive Defendant's calls using an automatic telephone dialing system in her
16 conversation with Defendant's representative on December 1, 2016.

17 20. Despite Plaintiff's request to cease, Defendant placed another two (2) collection calls to
18 Plaintiff on December 5, 2016.

19 21. Defendant continued to place collection calls to Plaintiff through January 16, 2017.

20 22. Despite Plaintiff's request that Defendant cease placing automated collection calls,
21 Defendant placed at least seventy-eight (78) automated calls to Plaintiff's cell phone.
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FIRST CAUSE OF ACTION
NEGLIGENT VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT
47 U.S.C. § 227

23. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-22.

24. The foregoing acts and omissions of Defendant constitute numerous and multiple negligent violations of the TCPA, including but not limited to each and every one of the above cited provisions of 47 U.S.C. § 227 et seq.

25. As a result of Defendant's negligent violations of 47 U.S.C. § 227 et seq., Plaintiff is entitled to an award of \$500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B).

26. Plaintiff is also entitled to seek injunctive relief prohibiting such conduct in the future.

SECOND CAUSE OF ACTION
KNOWING AND/OR WILLFUL VIOLATIONS OF THE TELEPHONE CONSUMER
PROTECTION ACT
47 U.S.C. § 227 et. seq.

27. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-26.

28. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above cited provisions of 47 U.S.C. § 227 et seq.

29. As a result of Defendant's knowing and/or willful violations of 47 U.S.C. § 227 et seq., Plaintiff is entitled an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

30. Plaintiff is also entitled to seek injunctive relief prohibiting such conduct in the future.

WHEREFORE, Plaintiff, STEPHANIE STAHL, respectfully requests judgment be entered against Defendant, CAPITAL ONE FINANCIAL, CORP., for the following:

FIRST CAUSE OF ACTION

31. For statutory damages of \$500.00 multiplied by the number of negligent violations of the TCPA alleged herein (78); \$39,000.00;

32. Actual damages and compensatory damages according to proof at time of trial;

SECOND CAUSE OF ACTION

33. For statutory damages of \$1,500.00 multiplied by the number of knowing and/or willful violations of TCPA alleged herein (78); \$117,000.00;

34. Actual damages and compensatory damages according to proof at time of trial;

ON ALL CAUSES OF ACTION

35. Actual damages and compensatory damages according to proof at time of trial;

36. Costs and reasonable attorneys' fees;


37. Any other relief that this Honorable Court deems appropriate.

JURY TRIAL DEMAND

Plaintiff demands a jury trial on all issues so triable.

RESPECTFULLY SUBMITTED,

DATED: July 31, 2017


By: /s/Wesley H. Blacksher
Wesley H. Blacksher (103026)
Attorney at Law

OF COUNSEL:

1 WESLEY H. BLACKSHER, LLC
2 3763 Professional Parkway
3 Mobile, AL 36609
4 Telephone: (251) 432-1010
Facsimile: (251) 343-2344
blacksherw@aol.com

5 **Please serve defendant by certified mail at:**

6 **Capital One**
7 **Attn: 12070-7000 (Subpoena Dept.)**
8 **15000 Capital One Drive**
9 **Richmond, VA 23238-1119**

10 **And**

11 **Capital One**
12 **1680 Capital One Drive**
13 **McLean, VA 22102**
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